



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

bw

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,349	07/21/2003	Kenneth L. Peterson	PTRN-102	5029
21272	7590	01/12/2005	EXAMINER	
MORLAND C FISCHER 2030 MAIN ST SUITE 1050 IRVINE, CA 92614			ARYANPOUR, MITRA	
		ART UNIT	PAPER NUMBER	
		3711		

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant No.	Applicant(s)
	10/623,349	PETERSON, KENNETH L.
Examiner	Art Unit	
Mitra Aryanpour	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 October 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3 and 5-19 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3 and 5-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 3-10 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 3 is dependent on cancelled claim 2.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Milinic (4,280,306).

Regarding claim 1, Milinic discloses a collapsible sports enclosure, said collapsible enclosure comprising: a support base having at least first (closure beam 4) and second (closure beam 5) sides that are spaced from one another; a support frame (purlins 10 and 10') coupled to the first and second sides of said support base so as to be movable relative to said support base from a collapsed position located between the first and second sides of said support base when the sports enclosure is not in use to a raised position projecting upwardly from said first and second sides when the sports enclosure is in use (see figure 1); and a protective netting (the broadest reasonable interpretation of protective netting would include canvas 13 and 13') carried by said support frame (purlins 10 and 10') to lifted above the first and second sides (closure

beams 4 and 5 respectively) of said support base when said support frame is moved to the raised position and folded between the first and second sides when said support frame is moved to the collapsed position (see column 3, lines 44-61).

Regarding claim 3, Milinic shows the plurality of frame members are U-shaped (the broadest reasonable interpretation of U-shaped frame members would include upper purlins 12, 12' and lower purlins 11, 11') that are pivotally connected to the first and second sides (closure beams 4 and 5 respectively) of said support base and rotatable relative thereto between said collapsed and raised positions, each of said U-shaped frame members lying in generally horizontal end-to-end alignment with one another between the first and second sides (closure beams 4 and 5 respectively) of said support base at the collapsed position of said support frame (upper purlins 12, 12' and lower purlins 11, 11') and projecting upwardly from said first and second sides and lying in generally vertical spaced alignment with one another in the raised position of said support frame (see figures 2 and 3).

Regarding claim 5, Milinic shows at least one coupling bar (best seen in figure 3, supporting beam 3) extending between successive ones of said plurality of U-shaped frame members (purlins 10, 10') for causing said plurality of frame members to be rotated in unison between said collapsed and raised positions.

Regarding claim 6, Milinic shows a cable (flexible cables 18, 24 and 25) tied to the plurality of U-shaped frame members of said support frame, said cable adapted to receive a pulling force, whereby to cause said U-shaped frame members (purlins 10, 10') to rotate from said collapsed position to said raised position, whereby said netting (canvas 13 and 13') is lifted above the first and second sides of the support base.

Regarding claim 7, Milinic shows a pull-up rail (the broadest reasonable interpretation of a pull-up rail would include the upper purlins 12 and 12') adapted to move vertically upward and downward relative to the first and second sides of said support base, said netting (canvas 13 and 13') attached to said pull-up rail (upper purlins 12 and 12') such that said netting is lifted by said pull-up rail above said first and second sides at the same time that the plurality of U-shaped framed members of said support frame are rotated to the raised position, and said netting being folded by said pull up rail (upper purlins 12 and 12') between said first and second sides at the same time that said plurality of U-shaped frame members are rotated to said collapsed position (see column 2, lines 43-60).

Regarding claim 8, note the rejection of claim 6.

Regarding claim 9, Milinic further shows a winch (manual winch 15) mounted on said support base (the winch is attached to the post 16 and connected to said cable, said winch (15) generating said pulling force to be applied to the cable (flexible cables 24 and 25) to cause the U-shaped frame members to rotate to said raised position, said pull-up rail to move vertically upward, and said netting to be lifted above the first and second sides of said support base (see column 2, lines 43-60).

Regarding claim 10, wherein the support base also includes a front end and a back end (end walls 30 and 31; see figure 1), each of said front and back ends extending between said first and second sides (4 and 5), said winch (15) mounted on said support base (it is mounted on post 16) at the front end thereof, said pull-up rail upper purlins 12 and 12'coupled to said support base at the back end thereof, and said cable running between the front and back ends of said support base to be attached to said support frame and said pull-up rail.

Regarding claim 11, note the rejection of claim 1.

Regarding claim 12, note the rejection of claim 1 and claim 3 in part.

Regarding claim 13, note the rejection of claim 6.

Regarding claim 14, note the rejection of claim 5.

Regarding claim 15, note the rejection of claim 7.

Regarding claim 16, note the rejection of claim 8.

Regarding claim 17, note the rejection of claim 9.

Regarding claim 18, note the rejection of claim 10 in part.

Regarding claim 19, note the rejection of claim 3 in part.

ADDITIONALLY:

4. Claims 1, 3, 5-8, 11-16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Beaulieu (Re 31,565).

Regarding claim 1, Beaulieu discloses a collapsible enclosure, said collapsible enclosure comprising: a support base having at least first (end panel 16) and second (end panel 17) sides that are spaced from one another; a support frame (collapsible frame means 11 and 12 being mirror images) coupled to the first and second sides of said support base so as to be movable relative to said support base from a collapsed position located between the first and second sides of said support base when the enclosure is not in use to a raised position projecting upwardly from said first and second sides when the enclosure is in use (see figure 2); and a protective netting (panels 13 and 14 fabricated from durable material such as nylon, Dacron or the like) carried by said support frame (collapsible frame means 11 and 12) to lifted above the first and second sides (end panels 16 and 17 respectively) of said support base when said support frame is

moved to the raised position and folded between the first and second sides when said support frame is moved to the collapsed position (see figures 1 and 2). It should be noted that the preamble, *a collapsible sports enclosure within which a ball can be hit, kicked or thrown without subjecting onlookers to possible injury*, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 3, Beaulieu shows the plurality of frame members are U-shaped (the broadest reasonable interpretation of U-shaped frame members would include collapsible frame means 11 and 12 in the open position in fig. 1, collapsed position in fig. 2 or partially erected position in figure 3) that are pivotally connected to the first and second sides (end panels 16 and 17 respectively) of said support base and rotatable relative thereto between said collapsed and raised positions, each of said U-shaped frame members lying in generally horizontal end-to-end alignment with one another between the first and second sides (end panels 16 and 17 respectively) of said support base at the collapsed position of said support frame (collapsible frame means 11 and 12) and projecting upwardly from said first and second sides and lying in generally vertical spaced alignment with one another in the raised position of said support frame.

Regarding claim 5, Beaulieu shows at least one coupling bar (best seen in figure 1, but not identified with a reference number) extending between successive ones of said plurality of U-shaped frame members for causing said plurality of frame members to be rotated in unison between said collapsed and raised positions.

Regarding claim 6, Beaulieu shows a cable (the broadest reasonable interpretation of cable would include the continuous lanyard element 32) tied to the plurality of U-shaped frame

members of said support frame, said cable adapted to receive a pulling force, whereby to cause said U-shaped frame members to rotate from said collapsed position to said raised position, whereby said netting is lifted above the first and second sides of the support base (see column 5, lines 40-49).

Regarding claim 7, Beaulieu shows a pull-up rail (upper articulating arms 36 and 64 positioned between the upright members 12-14 and 14-16 respectively) adapted to move vertically upward and downward relative to the first and second sides of said support base, said netting (76) attached to said pull-up rail such that said netting is lifted by said pull-up rail above said first and second sides at the same time that the plurality of U-shaped framed members of said support frame are rotated to the raised position, and said netting (76) being folded by said pull up rail between said first and second sides at the same time that said plurality of U-shaped frame members are rotated to said collapsed position (see column 4, lines 28-54 and column 5, lines 10-17).

Regarding claim 8, note the rejection of claim 6.

Regarding claim 11, note the rejection of claim 1.

Regarding claim 12, note the rejection of claim 1 and claim 3 in part.

Regarding claim 13, note the rejection of claim 6.

Regarding claim 14, note the rejection of claim 5.

Regarding claim 15, note the rejection of claim 7.

Regarding claim 16, note the rejection of claim 8.

Regarding claim 19, note the rejection of claim 3 in part.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 3 5-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA
07 January 2005



MITRA ARYANPOUR
PRIMARY EXAMINER